

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

David Mihalís,

Case No. 1:18 CV 1117

Petitioner,

ORDER ADOPTING
REPORT AND RECOMMENDATION

-vs-

JUDGE JACK ZOUHARY

Cynthia Mausser,

Respondent.

In May 2018, Petitioner *pro se* David Mihalís, then incarcerated at the Lake Erie Correctional Institution, filed a Petition seeking a writ of habeas corpus under 28 U.S.C. § 2254 (Doc. 1). Five months later, he was released on parole (Doc. 12). Since his release, Mihalís has not provided this Court with an updated address and has not filed anything in this case. Respondent Cynthia Mausser moves to dismiss for want of prosecution (Doc. 15). The Motion was referred to Magistrate Judge George Limbert for a Report and Recommendation (R&R) under Local Civil Rule 72.2. The R&R (Doc. 17) recommends this Court grant the Motion to Dismiss.

Under 28 U.S.C. § 636(b)(1), this Court reviews *de novo* those portions of the R&R to which objections are made. Failure to file objections within the timeframe set forth in the statute constitutes a waiver of *de novo* review. See *Thomas v. Arn*, 474 U.S. 140, 153–55 (1985); *United States v. Sullivan*, 431 F.3d 976, 984 (6th Cir. 2005). This Court attempted to mail the R&R to Mihalís at two different addresses (Non-Doc. Entries 2/28/2019, 3/18/2019). Both mailings were “returned to sender” (Docs. 18, 19). This Court has received no objections to the R&R.

This Court has reviewed the R&R and finds it accurately states the facts and law. This Court therefore adopts the R&R in its entirety.

Accordingly, the Motion to Dismiss for Want of Prosecution (Doc. 15) is granted, and the Petition (Doc. 1) is dismissed. The earlier Motion to Dismiss (Doc. 10) is denied as moot. This Court certifies an appeal from this decision could not be taken in good faith and there is no basis upon which to issue a certificate of appealability. 28 U.S.C. §§ 1915(a)(3), 2253(c).

IT IS SO ORDERED.

s/ Jack Zouhary
JACK ZOUHARY
U. S. DISTRICT JUDGE

April 11, 2019